

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Yanjiao Chen	Team: Team # 3	CCRB Case #: 201304699	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/13/2013 1:30 PM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 11/13/2014	EO SOL 11/13/2014	
Date/Time CV Reported Thu, 05/30/2013 3:10 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/30/2013 3:10 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Henry Henriquez	08780	938657	075 PCT
2. LT Eric Delman	00000	922228	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Eric Delman	Abuse: Eric Delman supervised the stop of § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
B.POM Henry Henriquez	Force: PO Henry Henriquez pointed his gun at § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
C.LT Eric Delman	Force: Lt. Eric Delman pointed his gun at § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
D.LT Eric Delman	Discourtesy: Lt. Eric Delman spoke rudely to § 87(2)(b)	§ 87(2)(b)
E.POM Henry Henriquez	Abuse: PO Henry Henriquez issued summonses to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
F.LT Eric Delman	Abuse: Lt. Eric Delman supervised the issuance of a summonses to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)

Case Summary

On May 30, 2013, § 87(2)(b) filed this complaint with the CCRB via telephone on behalf of her son, § 87(2)(b). On the same day, § 87(2)(b) filed a duplicate complaint for this incident with the CCRB via the on-line website.

On May 13, 2013, at around 1:30 p.m., § 87(2)(b) and four friends — § 87(2)(b) and § 87(2)(b) walked to § 87(2)(b) in Brooklyn after having sat in a courtyard across the street. They were buzzed into the building by a friend, and were all about to enter apartment § 87(2)(b) when Lt. Eric Delman and PO Henry Henriquez stopped § 87(2)(b) and § 87(2)(b) in the hallway. § 87(2)(b) and § 87(2)(b) had already walked into the apartment by then but were later commanded to exit into the hallway. The following allegations resulted from the incident:

Allegation A: Abuse of Authority - Lt. Eric Delman supervised the stop of § 87(2)(b)

§ 87(2)(b) and § 87(2)(b)

Allegation B: Abuse of Authority – PO Henry Henriquez pointed his gun at § 87(2)(b)

§ 87(2)(b) and § 87(2)(b)

Allegation C: Abuse of Authority – Lt. Eric Delman pointed his gun at § 87(2)(b)

and § 87(2)(b)

§ 87(2)(g)

Allegation D: Discourtesy – Lt. Eric Delman spoke rudely to § 87(2)(b)

§ 87(2)(g)

Allegation E: Abuse of Authority – PO Henry Henriquez issued summonses to

§ 87(2)(b) and § 87(2)(b)

Allegation F: Abuse of Authority – Lt. Eric Delman supervised the issue of a

summonses to § 87(2)(b) and § 87(2)(b)

§ 87(2)(g)

Note on incident location, both officers and civilians were uncertain of whether the address was § 87(2)(b) or § 87(2)(b). The summons sheets state the former address, and the command log state the latter. However, the investigation determined that the incident location was § 87(2)(b) in Brooklyn.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. He is a black man, who is 5'9" tall, weighs 120 pounds, and has black hair and brown eyes.
- § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on June 17, 2013 (enc. C-2 – C-7). His initial narrative (enc. B-1 – B-3), and two phone statements from June 3, 2013 (enc. C-1), and June 19, 2013 (enc. C-8), were all consistent with his in-person testimony. They are summarized below, with any differences noted.

On May 13, 2013, at around 1:30 p.m., § 87(2)(b) was with § 87(2)(b) and § 87(2)(b) at a park near Alabama Avenue in Brooklyn. They decided to get a basketball from § 87(2)(b)'s friend who lived in § 87(2)(b) Apt. § 87(2)(b). The five of them walked across the street, where they noticed a police vehicle driving by before entering the apartment building. They walked up the stairs where § 87(2)(b) and § 87(2)(b) sat on the stair steps, while § 87(2)(b) and § 87(2)(b) talked with § 87(2)(b)'s friend outside of the doorway. The friend asked § 87(2)(b) and § 87(2)(b) to come into his apartment, the number of which § 87(2)(b) believed to be § 87(2)(b). As they were going inside the apartment, they heard footsteps and saw two uniformed men, identified via the investigation as PO Henry Henriquez and Lt. Eric Delman of the 75th Precinct, point their guns at § 87(2)(b) and § 87(2)(b) and say "get down, get down!"

§ 87(2)(b) his friend, § 87(2)(b) and § 87(2)(b) did not know what was going on, so they proceeded to close the door behind them. The two officers did not make any commands to not enter the apartment. § 87(2)(b)'s friend's grandmother and younger brother were also inside the apartment. After about a minute, the officers knocked on the apartment door and asked § 87(2)(b) and § 87(2)(b) to come out. Neither PO Henriquez nor Lt. Delman entered the apartment. § 87(2)(b) and § 87(2)(b) were already sitting on the floor with their hands behind their backs when § 87(2)(b) and § 87(2)(b) exited the apartment.

PO Henriquez frisked and searched the persons of § 87(2)(b) and § 87(2)(b) as well as looked through their backpacks. § 87(2)(b) described how PO Henriquez patted his hair, all around his shirt, and his pants, and felt around his shoes, and reached into his pockets, but did not find anything. PO Henriquez applied a similar procedure to § 87(2)(b) and § 87(2)(b). He did not frisk or search § 87(2)(b) or § 87(2)(b). PO Henriquez and Lt. Delman then told § 87(2)(b) and § 87(2)(b) to sit on the floor and keep their hands out in front of them in plain view. Only § 87(2)(b) said anything during this interaction, asking "Do you have the right to search us? But you can search us anyways." PO Henriquez responded by calling § 87(2)(b) a "smart-ass," and stated that he had smelled marijuana while driving down Alabama Avenue.

An alarm had gone off inside the apartment building (for unknown reasons) after the frisks and searches, prompting PO Henriquez to call for backup. All five boys were taken downstairs where three police vans and one more marked police vehicle had arrived, bringing eight additional officers. Some of these officers were in uniform while others were in plainclothes. Lt. Delman then ordered § 87(2)(b) and § 87(2)(b) be handcuffed and taken to the 75th Precinct stationhouse for processing. PO

Henriquez patted all five civilians in a similar manner as he had done so to § 87(2)(b) and § 87(2)(b) while inside § 87(2)(b) before placing everyone inside police cars for transport.

Witness: § 87(2)(b)

- § 87(2)(b) is a black man. He is § 87(2)(b).
- The investigator obtained § 87(2)(b)'s sworn statement while conducting field work, but did not obtain his pedigree information.

CCRB Statement

§ 87(2)(b) was interviewed outside of § 87(2)(b) in Brooklyn (enc. D-1 – D-3).

On May 13, 2013, at around 1:50 p.m. § 87(2)(b) was sitting in front of § 87(2)(b) when he saw five teenage black boys sitting on the stoop of § 87(2)(b). The boys were not hiding but merely sitting there, and had been doing so for around ten minutes before unidentified officers, a male and a female (the investigation was unable to identify them, therefore they will be referred to as PO1 and PO2 for the rest of this summary), pulled up in their patrol car after which the boys went inside the building. § 87(2)(b) could not recall observing any officers enter the building. PO1 and PO2 waited outside, and when the five boys came outside again, PO1 and PO2 handcuffed all five boys, searched their backpacks, called for a van, and put the boys inside the van. A “captain”, who § 87(2)(b) described as wearing a white uniform, who the investigation determined to be Lt. Eric Delman, came over to § 87(2)(b) and asked for the superintendent. § 87(2)(b) identified himself as § 87(2)(b) and showed Lt. Delman his identification and provided his phone number § 87(2)(b). Lt. Delman stated to § 87(2)(b) that he would be contacting him, but never did.

§ 87(2)(b) believed that one of the boys does live in Apt. § 87(2)(b) of § 87(2)(b) however, he does not know this boy's name. The entire incident, from when the officers arrived to when they left, lasted about thirty minutes. Backup was summonsed, and a police van, another patrol car, and an unmarked vehicle arrived.

The investigator had asked § 87(2)(b) off the record if he may be confusing the incident with another one. § 87(2)(b) refuted such a notion, saying that there has only been one incident involving five teenage black young men that he knows of and witnessed. The investigator showed § 87(2)(b) a picture of § 87(2)(b) and § 87(2)(b) stated that he recognized § 87(2)(b) from the incident.

Attempts to Contact Civilians

The undersigned investigator reached § 87(2)(b) on June 13, 2013, during which time she provided a house phone number with which to reach her son, § 87(2)(b) who is a victim in this complaint. The investigator called the aforementioned number four times between June 13, 2013, and June 27, 2013, without reaching § 87(2)(b) and not leaving voice messages as the option was not available. The investigator called § 87(2)(b) twice on June 18, 2013, and June 21, 2013, and during the first conversation § 87(2)(b) explained that § 87(2)(b) would probably not pick up the phone, thus scheduled for § 87(2)(b) to call the investigator on June 20, 2013, and June 26, 2013, respectively. However, § 87(2)(b) failed to contact the investigator at those designated times. Two please call letters were mailed to § 87(2)(b) and § 87(2)(b) on May 31 and June 27, 2013, none of which have been returned to the CCRB by the United States Postal Service.

§ 87(2)(b) did not have § 87(2)(b) or § 87(2)(b)'s contact information. The investigator conducted searches on Whitepages.com and the Lexis Nexis database on August 6, 2013, with both yielding negative results. Lt. Delman's memo book entries pertaining to this incident contained all five victims' addresses, and the investigator mailed two please call letters to § 87(2)(b) and § 87(2)(b) each, on August 6 and August 9, 2013. Only § 87(2)(b)'s letters were returned to the CCRB by the United States Postal Service as "not deliverable as addressed." On August 8, 2013, a COLES Directory search was conducted, yielding one phone number for § 87(2)(b) and § 87(2)(b) each. The investigator called these phone numbers five times between August 9 and August 25, 2013.

The civilians living in apartment § 87(2)(b) of § 87(2)(b) remain unidentified as § 87(2)(b) did not know them, claiming that they were § 87(2)(b) friends, and the investigator was never able to contact § 87(2)(b). While conducting field work at the incident location, the investigator was unable to enter § 87(2)(b). When the investigator rang the buzzer for apartment § 87(2)(b) a man answered and refused to allow the investigator to enter the building without a specific name. The investigator provided a few details regarding the case, but the man denied having any recollection or knowledge of such an incident.

NYPD Statements:

Subject Officer: PO HENRY HENRIQUEZ

- *PO Henriquez was § 87(2)(b) old at the time of the incident. He is a Hispanic man who is 5'4" tall, weighs 160 pounds, and has black hair and brown eyes.*
- *On May 13, 2013, PO Henriquez was the Lieutenant's Operator working with Lt. Delman. He worked between the hours of 7:05 a.m. and 3:40 p.m. in uniform, and in marked RMP # 4383.*

Memo Book

PO Henriquez's memo book entries pertaining to this incident (enc. E-3 – E-5) state verbatim that "at 1:30 p.m., 5 C-summonses trespass at § 87(2)(b), § 87(2)(b) § 87(2)(b)

CCRB Statement

PO Henriquez was interviewed at the CCRB on August 5, 2013 (enc. E-6 – E-8), and his statement is summarized below.

On May 13, 2013, at around 1:30 p.m. PO Henriquez was driving northbound on § 87(2)(b) towards Dumont Avenue in Brooklyn. Having worked in this precinct for eight years, PO Henriquez is very familiar with these buildings, and knows them to be locations for criminal activity such as trespassing, narcotics, and robberies. He slowed down near a courtyard outside of § 87(2)(b) where he saw § 87(2)(b) and § 87(2)(b) sitting on a set of steps leading into a basement, with one of them standing. He did not see cigarettes or blunts, or smelled marijuana at this point of the observation, but he did see smoke around the five individuals which caused him to believe that they were smoking. PO Henriquez made eye contact with the male who was standing, and the latter then motioned to his friends in a manner that seemed to inform them of police in the area. PO Henriquez could not specifically describe what these motions were. PO Henriquez drove off as he observed the men gather their belongings to leave.

PO Henriquez proceeded to drive around to the other side of the courtyard to get a better view of the five individuals. His intention was to find out if they lived in this area as the buildings

are private residences. When he got to the other side, PO Henriquez did not see the five individuals, but did observe them again a minute later in front of § 87(2)(b) swiping at the buzzers. PO Henriquez stated that the individuals did not seem to know anyone in the building as they were not pressing a specific apartment button. Someone finally buzzed the five individuals in as they were ultimately able to enter the building. PO Henriquez parked his patrol car across from § 87(2)(b) and approached the building with Lt. Delman. The § 87(2)(b) was standing half a building over from the entrance and informed both officers that he did not recognize the five individuals and that they did not live in the building.

PO Henriquez and Lt. Delman entered the building after being let in by the superintendent and proceeded up the stairs to find the men. PO Henriquez stated in his interview that there was no specific infraction with which he was going to charge the five individuals at this time, and following them into the building was just part of a police investigation. The stairwell was poorly lit, he was going around blind corners, and this area is a high-crime area, thus PO Henriquez drew his firearm for his safety. While walking up the last set of stairs to the fourth floor, PO Henriquez saw two of the individuals from before, who the investigation determined to be Messrs. § 87(2)(b) and § 87(2)(b) standing on the last two steps, with the other three individuals, who the investigation determined to be § 87(2)(b) and § 87(2)(b) in the process of entering an apartment to the right. PO Henriquez did not see how § 87(2)(b) and § 87(2)(b) were let in, as the apartment door had already slammed close when he got to the top of the steps. PO Henriquez stopped § 87(2)(b) and § 87(2)(b) in the hallway with verbal commands and pointed his gun at one of the men (which one is unclear). After § 87(2)(b) and § 87(2)(b) were detained, not handcuffed, but sitting down and demonstrating compliance, PO Henriquez holstered his gun.

PO Henriquez knocked on the apartment door that he had seen close to find out about § 87(2)(b) and § 87(2)(b) who were inside. An unidentified elderly lady opened the door and stated that she did not know the three individuals. She did not appear upset, but was confused about the situation. There were other young men inside the apartment besides § 87(2)(b) and the elderly woman, but PO Henriquez could not recall what their relationship was with the elderly lady. PO Henriquez ordered § 87(2)(b) and § 87(2)(b) to come outside into the hallway, and line up, back against the wall, with § 87(2)(b) and § 87(2)(b). All five individuals were speaking in aggressive tones of voices and cursing at the officers. PO Henriquez and Lt. Delman were both speaking, trying to get the individuals to stop talking and moving their arms so the situation could proceed with more structure. PO Henriquez stated that the five individuals did not seem to understand the severity of the situation. PO Henriquez did not use profanity or call anyone a “smart-ass,” nor did he hear Lt. Delman do so. He ordered the individuals to turn around and put their hands on the walls. After they complied with this command, PO Henriquez frisked some of the individuals (although he could not recall specifically who he frisked) by patting them down from their shoulders to their feet and felt around their waistbands. He could not recall going into anyone’s pockets, and did not recover anything. PO Henriquez also searched all of the individuals’ backpacks but did not find anything. Once the boys were congregated together, a strong odor of marijuana could be discerned, but no physical marijuana was recovered. Before he left the location, PO Henriquez went back up to apartment § 87(2)(b) and spoke with one of the young men inside the apartment. The unidentified young man stated that he did know § 87(2)(b) but had not been expecting him to come to his apartment, and had not seen him in a long time.

PO Henriquez had directed a few of the five individuals to step on the stairway leading to the roof, however one of the individuals had climbed too far, and set off the alarm. That was when he or Lt. Delman, PO Henriquez could not recall who, went over the radio and called for

additional units. Other officers eventually showed up at the fourth floor and helped bring the five individuals downstairs. Once outside, PO Henriquez “frisked and searched” the five individuals once more while they were being handcuffed as part of arrest procedure. He could not recall who helped him handcuff the males or how many he personally handcuffed. There was no struggle in bringing the men downstairs or transporting them to the stationhouse. It was during the car ride to the stationhouse that PO Henriquez and Lt. Delman made the decision to issue all five males summonses for trespassing. Marijuana was a consideration, but since they did not have any evidence, this charge could not be levied.

Subject Officer: LT. ERIC DELMAN

- *Lt. Delman was § 87(2)(b) old at the time of the incident. He is a white man who is 5’10” tall, weighs 228 pounds, and has grey hair and brown eyes.*
- *On May 13, 2013, Lt. Delman was the platoon commander with PO Henriquez. He worked between the hours of 6:45 a.m. and 3:30 p.m. in uniform and in marked RMP 4383.*

Memo Book

Lt. Delman’s memo book entries pertaining to this incident state verbatim (enc. F-1 – F-3) that “at 1:30 p.m., observed 5 males § 87(2)(b) at § 87(2)(b). In courtyard, depts observed hiding in vestibule of § 87(2)(b). Defts fled into building. Before entering spoke to § 87(2)(b) § 87(2)(b) who stated the 5 males did not have permission to be in building. Chased defts into building to § floor. 3 stopped in hallway, 2 continued into apt § 87(2)(b). Female resident stated she does not know who they are and did not have permission to be in apartment. Perps transported to pct by school unit, we transported deft parks. § 87(2)(b) § 87(2)(b),

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§ 87(2)(b)

CCRB Statement

Lt. Eric Delman was interviewed at the CCRB on August 5, 2013 (enc. F-4 – F-6). § 87(2)(g)

§ 87(2)(g)

On May 13, 2013, at around 1:30 p.m., Lt. Delman was concerned specifically with an ongoing robbery pattern, number 44, involving 4-5 black males committing robberies at gunpoint in commercial establishments. He was driving past § 87(2)(b) when he observed § 87(2)(b) (who will collectively be referred as “five individuals” for the remainder of this summary), from about a street width away, in the corner of the courtyard. Lt. Delman explained that this area is part of a Clean-Halls program, and that “if you don’t live in the building or you’re not there visiting someone, you will get arrested.” Lt. Delman’s view of the courtyard was not obstructed, but he did not see what the five individuals were doing. He made eye contact with some of them before all five got up immediately and left. He and PO Henriquez drove around § 87(2)(b) because he believed the individuals to be criminally trespassing or smoking marijuana, and wanted to see what they were up to as they looked to be in their late teens and should be in school.

When Lt. Delman went around the other side of the courtyard, he observed the five individuals crouching and hiding in the vestibule of § 87(2)(b). Once the five individuals saw the officers again, they fled into the building. Lt. Delman did not see any of the individuals press the buzzer. Lt. Delman and PO Henriquez approached the building, and spoke

with § 87(2)(b) who stated that the kids did not have permission to be in the building and opened the door for the officers. Because this area is known for its violence, such as homicides and burglaries, and Lt. Delman was following an ongoing robbery pattern, he pulled out his gun and held it at his side, as did PO Henriquez, for their safety. Both officers proceeded up the stairwell which was medium lit, narrow, and had no windows.

Lt. Delman pointed his gun at the first individual he saw on the fourth floor, and ordered him to get down onto the floor. Lt. Delman could not recall who exactly this individual was, but when he complied and lay face down on the ground, Lt. Delman immediately holstered his gun. There were two other individuals standing in the hallway but Lt. Delman could not recall who they were and if they took similar positions on the floor (the investigation however determined that there were only two individuals total standing in the hallway, § 87(2)(b) and § 87(2)(b)). Lt. Delman heard a door slam and lost sight of PO Henriquez, who had gone to see if the other two individuals had entered the apartment (the investigation however determined that three individuals, § 87(2)(b) and § 87(2)(b) entered the apartment). An alarm had also gone off for unknown reasons and at an unknown point in time, making it very hard to hear. In response, Lt. Delman called for additional units over the radio, but his intentions for doing so were never clarified during the interview.

PO Henriquez had spoken with an elderly lady at the door of the apartment, after which § 87(2)(b) and § 87(2)(b) also came out into the hallway. Lt. Delman recalled the elderly lady not being upset or combative and that she did not know the five individuals, at which time it was determined that § 87(2)(b) and § 87(2)(b) were to be arrested for criminal trespass. Lt. Delman “frisked and searched” the individual at whom he had pointed a gun, but did not find any weapons on him and allowed him to stand up. Lt. Delman could not recall frisking or searching any of the other individuals but did search their backpack, recovering nothing. Both PO Henriquez and Lt. Delman were verbally communicating in a calm manner with all five individuals, and neither Lt. Delman nor PO Henriquez used profanity or called anyone a “smart ass”. Additional units arrived at the scene and came to the fourth floor to help escort the five individuals outside. Once outside the building, the five individuals were handcuffed by an unidentified officer, but were not frisked or searched again. Lt. Delman did not smell any marijuana on the five individuals or find any marijuana on their person.

Later on after the incident had concluded, Lt. Delman discovered that one of the men individuals did know someone inside the apartment. However, at the time in the hallway while a police investigation was on-going, no one, including the elderly lady, was able to confirm this fact. As a result, the five individuals were only summonsed for trespassing, not arrested for criminal trespass.

NYPD Documents

Command Log

PO Henriquez recorded in the command log that at 2 p.m. (enc. G-2), § 87(2)(b) and § 87(2)(b) were all summonsed for trespassing at § 87(2)(b).

SPRINT

This incident generated SPRINT number M07280 (enc. G-3) which states that at § 87(2)(b) five individuals were arrested.

Robbery Pattern

On August 15, 2013, NYPD/CCRB Liaison Lt. Lee Albano searched for Robbery Pattern number 44 from the 75th Precinct (enc. G-1). The pattern was initiated on February 25, 2013, and references seven robberies that occurred between December 20, 2012 and March 9, 2013. The victims have all been male black teenagers, and the perpetrators range from one to four black males (no other description or age information provided).

Summons for Incident and Disposition

- As of March 5, 2014, the investigator has contacted Kings County Criminal Summonses Disposition no less than twenty times regarding § 87(2)(b)'s summons number § 87(2)(b).
■ No response has been provided.

Status of Civil Proceedings

- As of March 24, 2014, § 87(2)(b) has not filed a notice of claim with the City of New York regarding this incident (enc. I-13), which is seven months past the 90-day filing deadline.

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (enc. A-5).
- This is the first CCRB complaint filed by § 87(2)(b) (enc. A-6).

Subject Officers CCRB History

- Lt. Eric Delman has been a member of the service for fifteen years and there is one substantiated CCRB allegation against him (enc. A-1 – A-3):
 - In CCRB Case No. 201000719, involving a stop allegation, the Board recommended Charges, and the NYPD imposed Instructions.
- PO Henry Henriquez has been a member of the service for eight years and there are no substantiated CCRB allegations against him (enc. A-4).

Conclusion

Identification of Subject Officers

PO Henriquez and Lt. Delman both confirmed their interactions with § 87(2)(b)

and § 87(2)(b) § 87(2)(g)

Regarding the “captain” who § 87(2)(b) spoke to, the investigation identified him as Lt. Delman since he was the only lieutenant reportedly at the scene, wears a white uniform, and also stated himself that he spoke with § 87(2)(b) during the incident.

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

Investigative Findings and Recommendations

Allegation A: Abuse of Authority - Lt. Eric Delman supervised the stop of § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that Lt. Delman and PO Henriquez stopped them on the § floor of § 87(2)(b) in Brooklyn without justification.

Lt. Delman stated that he pursued § 87(2)(b) and § 87(2)(b) because at 1:30 p.m. on May 13, 2013, school was still in session, and he believed the five individuals to be committing truancy. PO Henriquez stated that his intention in following the five individuals was to find out if they lived in the area, and that the stop was part of a police investigation.

New York Education Law § 3213 authorizes police officers to detain suspected truants since enforcement of New York's compulsory education laws is well within scope of both New York City Charter's grant of authority and traditional role of police that [the] charter restates." In the Matter of Shannon B. 70 N.Y.2d 458 (1987) (enc. AA-1 – AA-5)

§ 87(2)(g)

Allegation B: Abuse of Authority – PO Henry Henriquez pointed his gun at § 87(2)(b)

§ 87(2)(b) and § 87(2)(b)

Allegation C: Abuse of Authority – Lt. Eric Delman pointed his gun at § 87(2)(b)

and § 87(2)(b)

§ 87(2)(b) alleged that PO Henriquez and Lt. Delman pointed their guns at § 87(2)(b) and § 87(2)(b) without justification. While they were pointing their guns, both officers issued the verbal command "get down, get down!" Because § 87(2)(b) was already in the process of entering apartment number § 87(2)(b), he only observed PO Henriquez and Lt. Delman pointing their guns at § 87(2)(b) and § 87(2)(b) for a very short amount of time.

Both PO Henriquez and Lt. Delman admitted to pointing their guns at § 87(2)(b) and § 87(2)(b) (who pointed their gun at which civilian remains unclear). PO Henriquez reasoned that he had drawn his firearm for his safety because the stairwell was poorly lit, he was going around blind corners, and the area is known for its high-crime activity. Upon seeing § 87(2)(b) and § 87(2)(b) in the hallway, PO Henriquez stopped them with verbal commands and pointed his gun at one of them. After § 87(2)(b) and § 87(2)(b) were sitting down and demonstrating compliance, PO Henriquez holstered his gun.

Lt. Delman stated similarly that this area is known for its violence such as homicides and burglaries, and because he was following ongoing robbery pattern number 44, he and PO Henriquez pulled out their guns for their safety. Lt. Delman pointed his gun at the first individual he saw on the fourth floor (either § 87(2)(b) or § 87(2)(b) and commanded him to get down onto the floor. The individual complied and lay face down on the floor, after which Lt. Delman immediately holstered his gun.

Robbery Pattern Number 44 references seven robberies that occurred between December 20, 2012 and March 9, 2013. The victims have all been black male teenagers, and the perpetrators range from one to four black males.

As stated in *Police Department v. Gliner*, "The policy of the Department is that an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own

or another's personal safety. This policy permits officers to discourage or terminate the attempted use of deadly force against themselves by providing them with a less drastic alternative to the actual use of a firearm,” Police Department v. Gliner, OATH Index No. 955/00 (2000) (enc. AB-1 – AB-19).

§ 87(2)(g)

Allegation D: Discourtesy – Lt. Eric Delman spoke rudely to § 87(2)(b)

alleged that Lt. Delman had called § 87(2)(b) a “smart-ass”.

Both PO Henriquez and Lt. Delman denied ever calling any civilian a “smart-ass” or using profanity during the incident. Neither of them heard the other officer do so either.

witness testimonies. § 87(2)(g)

Allegation E: Abuse of Authority – PO Henry Henriquez issued summonses to

and § 87(2)(b)

Allegation F: Abuse of Authority – Lt. Eric Delman supervised the issuance of

§ 87(2)(b)

and § 87(2)(b)

§ 87(2)(b) stated that he, § 87(2)(b) and § 87(2)(b) were issued summonses for criminal trespass despite the fact that they were not trespassing. § 87(2)(b) friend (identity unknown) lived in § 87(2)(b) Apt. § 87(2)(b) and § 87(2)(b) and his friends went there to borrow a basketball from him.

stated that he, § 87(2)(b)

§ 87(2)(b)

issued summonses for criminal trespass despite the fact that they were not trespassing. §

§ 87(2)(b) friend (identity unknown) lived in § 87(2)(b) Apt. § 87(2)(b) and § 87(2)(b) and his friends went there to borrow a basketball from him.

Both PO Henriquez and Lt. Delman admitted that before leaving the scene when the incident had concluded, PO Henriquez had gone back up to apartment § 87(2)(b) and confirmed that § 87(2)(b) or § 87(2)(b) knew someone in that apartment, and that they had not been trespassing. Despite no longer having probable cause to believe they had been trespassing, PO Henriquez still summonsed all five individuals for the violation. § 87(2)(g)

or § 87(2)(b)

I knew someone in that apartment.

§ 87(2)(g)

Team: 3

Investigator:	_____	<u>Yanjiao Chen</u>	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date